

August 3, 2019

Frank Dominic Dundee
7707 Amberwood Trail
Boardman, Ohio 44512

Magistrate Judge
Jonathan D. Greenberg
United States District Court
Northern District Of Ohio
Eastern Division

FILED
AUG - 5 2019
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

CASE NO. 1:19CV01141

Your Honor,

On 8/2/19 I received your denial to my pro se request to use the Northern District of Ohio's electronic filing system. I can understand the District's preferred policy to limit access to registered attorneys. That makes perfect sense. Even if my request had been allowed, I was unsure if I could use the system as designed, but I navigated the filing system, so I may have the "capability" to use the system.

I made the request out of some necessity. I have a physical impairment, Hereditary Spastic Paraplegia, an upper motor neuron disease that limits my ability to walk and maintain balance. It also affects my ability to drive a car long distances, over an hour. I currently use a walker to assist in my ambulation. So being able to access things on my computer would have been helpful; but it isn't a deal-breaker, either.

I have no problem with your decision, but I do want to make you aware of several things:

- I filed all proper forms for the pro se litigant, including the PRO SE APPLICANT ELECTRONIC FILING REGISTRATION FORM on May 20, 2019. A few weeks later I received a separate notice from Ms. Opacich's office instructing me that I needed permission of Judge Polster. There were no instructions as to how to proceed.
- I called Judge Polster's office and asked about the mechanics of asking Judge Polster for permission. The woman on the phone apologized and said she didn't know the answer. She put me on hold and asked another member of the staff. She returned to the phone and said neither of them knew the process and told me to phone back the next week when another staff member would return from vacation.

- I called the next week and the woman that I spoke with told me to “just send a letter to Judge Polster” asking permission to use the electronic filing system. It was that simple.

As I have shown, even the members of Judge Polster's staff didn't know how to file a “properly-captioned motion” indicating that they don't have a “general understanding of accepted court procedures” and still Judge Polster has them on his staff. I have demonstrated a “willingness” to file documents electronically. We'll never know if I have the “capability.”

I am aware that the courts are burdened by the number of pro se courses that are filed; that once pro se litigants enter the federal court system, their presence multiplies the resources spent by the court and by the parties on the proceedings, as pro se litigants generally are unfamiliar with the procedural rules and the substantive law governing their claims. That is why I did not ask for a jury trial. However, the basic principles, one of the glories of the American system of justice, is that the courthouse door is open to everyone, even those who choose to litigate their cases without an attorney. Federal statutory law allows parties to “plead and conduct their own cases” as pro se litigants.

Renowned Judge Richard Posner, resigned abruptly in 2017, in part because felt that pro se litigants were not being treated fairly. His belief that pro se litigants are frequently mistreated in civil litigation and denied a full and fair opportunity to vindicate their claims is neither new nor limited to federal courts. I am also aware that the success rate for a pro se litigant is around 2%, so going in the odds aren't in my favor.

My biggest fear is not striking out at the plate with the winning run on 3rd base. My biggest fear is that I never get the chance to bat. I can live with going down swinging. That is why the tenor of your last couple paragraphs has me concerned. It is one thing to dismiss the request because the electronic filing system is more suited to attorneys than pro se litigants; but to dismiss it because the request wasn't submitted in the correct format makes me fearful that my complaint against University Hospital will be stillborn, on a technicality, not on the merits. I am certain that I have included enough facts to support my allegations and set forth a claim upon which relief may be granted as a matter of law, if it is able to get a fair hearing.

I'm an honest and direct man of 66. I'm a hospital pharmacist, among many other things, since 1976. A strange twist of fate caused me to spend about 20 years, concurrently, 1980 to 2000, in collective bargaining. So I have an advantage over most pro se litigants; I was an officer and president of a union made up of non-nursing professionals at a large hospital system, the Western Reserve Care System in Youngstown. I'm familiar with negotiating contracts, grievance procedure, arbitration, mediation and the FMCS. Some of the arbitration decisions we won may still be on the books.

Ira Mirkin, from the firm of Green, Haines and Sgambati, was our union's legal counsel for all of the years I was involved. Those years taught me about justice and how difficult it is to obtain for the workingman. Some examples of my past life and why I might have an understanding of employee rights better than most pro se litigants:

In 1985, I encouraged the members of our union to support SEIU Local 627, which Attorney Anthony Sgambati represented. SEIU 627 had over 5,000 members at the time and it looked for sure that they would be forced out on strike and never get back in, as replacement workers had been lined up months before negotiations were to end. Because of our union's support, our threat to honor 627's picket lines, a strike was averted.

I was invited to the 627 celebration after the contract was signed. I was sitting at a table among about 1000 people when Attorney Sgambati went to the dais. He got a standing ovation. Tony raised his hands to quiet the crowd and he said, "There is a person here this evening who is more deserving of applause than I. If anyone ever tells you that one person can't make a difference, you tell them about Frank Dundee. Frank, on his own initiative, was instrumental in making our efforts at the bargaining table successful." Then he called me to the stage and I got the only standing ovation of my life. Tony Sgambati passed away years ago; much too young. But at that time, he was considered one of the best labor attorneys in the country and his kind words have stayed with me.

One more story is in order. In 1986, because of our support of local 627, the hospital system hired a union-busting law firm from Kansas City, Elliot and Kaiser. The attorney they sent was Bob Janowitz. Bob was one of the best attorneys in the country, as well. He was the youngest regional attorney ever appointed by the NLRB. That was the least of his long list of accomplishments. Bob passed away in 2013. Look his obit up on Google, it is impressive.

Anyhow, the contract negotiations in 1986 were contentious. Our union was forced out on strike for 8 days. The stress on our members and on the hospital system was tremendous. In the end, nobody won. We agreed to a contract and went back to work and Bob went back to Kansas City. I was 33 years old and I'd like to think I fought Janowitz to a draw. Despite the fact that we were adversaries at the table, away from the table we were friendly, if not friends. Bob Janowitz gave me another compliment that stayed with me; at the end of a six week negotiation, nose to nose, he called me a "mensch." A lifetime award from a most honorable man.

I am a mensch. I came to University Hospitals to end my career in pharmacy, quietly. I never envisioned years that have been far more contentious than my union years. My complaint against UH wasn't filed just for one person's benefit; it was filed to hold the corporation accountable to its 28,000 employees. Win, lose or draw, I was obligated to file my complaint at a time in my life when I really seek an end to the

drama. I don't relish any of this. My physical condition is a major impediment. But I want my chance in court, even if I have to do battle on my opponent's home turf.

I am extremely proud of the complaint that I submitted, as it does set forth a claim upon which relief may be granted as a matter of law. I ask Your Honor to give me chance to get up to bat even though I may not have a "general understanding of accepted court procedures." I can accept any decision, as long as I get a chance to be heard.

Sincerely,

A handwritten signature in blue ink, appearing to read "Frank D. Dundee". The signature is stylized with a large "F" and a cursive "Dundee".

Frank D. Dundee

Sandy Opacich
Clerk of Court

United States District Court
Northern District of Ohio
Office of the Clerk
Carl B. Stokes United States Court House
801 West Superior Avenue
Cleveland, Ohio 44113-1830

(216) 357-7000

May 23, 2019

Frank D. Dundee
7707 Amberwood Trail
Boardman, OH 44512

Dear Mr. Dundee,

We received the enclosed document. Before you can apply for an electronic filing account, you must request permission from the judge in your case. Your case number is 19cv1141 assigned to Judge Polster. Once the judge has given you permission, sign the registration form and send back to the Clerk's office.

Sincerely,

Sandy Opacich, Clerk

By:



Deputy Clerk (wp)

568 John F. Seiberling
Federal Building and U.S. Court House
2 South Main Street
Akron, OH 44308-1876
(330) 252-6000

114 James M. Ashley & Thomas W. L. Ashley
U.S. Court House
1716 Spielbusch Avenue
Toledo, OH 43604-5385
(419) 213-5500

337 Thomas D. Lambros
Federal Building and U.S. Court House
125 Market Street
Youngstown, OH 44503-1787
(330) 884-7400

RECEIVED

MAY 20 2019

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**PRO SE APPLICANT ELECTRONIC FILING REGISTRATION FORM**CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
YOUNGSTOWN

This form is used to register for an account on the Northern District of Ohio Electronic Filing System (the system). Registered pro se applicants will have privileges to electronically submit documents in a particular case and to view the electronic docket sheets and documents. By registering, pro se applicants consent to receiving electronic notice of filings through the system. The following information is required for registration:

PLEASE TYPE

Mr. / Mrs. / Ms. (circle one)

First Name: FrankMiddle Name: DominicLast Name: Dundee

If appropriate circle one: Senior / Junior / II / III

Address: 7707 Amberwood TrailCity: BoardmanState: OhioZip Code: 44512Voice Telephone Number: (330) 398-8274Fax Number: (330) 728-2662Internet Mail Address: fdundee@gmail.com

Pro se applicants seeking to file documents electronically must be granted permission by the Judicial Officer to register and file documents electronically in a particular case pursuant to LR 5.1 and LCrR 49.2

Date permission granted to register & file documents electronically: _____ in case number: _____

By submitting this registration form, the undersigned agrees to abide by all Court rules, orders and policies and procedures governing the use of the electronic filing system. The undersigned understands that notice of filings will be received via the Court's electronic filing system. The combination of user id and password will serve as the signature of the pro se litigant filing the document(s). Users must protect the security of their passwords and immediately notify the Court if they learn that their password has been compromised by an unauthorized user.

Signature of Pro Se Applicant _____

Date _____

Submit completed Registration Form to:

Sandy Opacich, Clerk
United States District Court
Attention: Electronic Filing System Registration
801 West Superior Avenue
Cleveland, OH 44113-1830

Once your registration is complete, you will receive notification by email as to your user id and password needed to access the system. Procedures for using the system will be available for downloading when you access the system via the Internet. You may contact the Electronic Filing Help Desk in the Clerk's Office at 1-800-355-8498 if you have any questions concerning the registration process or the use of the electronic filing system.

The CM/ECF system also requires users to have a separate PACER id and password in order to view documents in the CM/ECF system. PACER accounts can be established through the PACER Service Center:

PACER Service Center
P.O. Box 780549
San Antonio, TX 78278
800-676-6856

For further information on the support services provided by the PACER Service Center, please visit the PACER website at www.pacer.psc.uscourts.gov

For your information, the Judicial Conference of the United States has established a fee to be collected for access to PACER. All registered individuals will be charged a user fee. Please refer to the PACER Service Center regarding fees.

Revised 12/01/2018